

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 27.80
Title 14, California Code of Regulations
Re: Ocean Salmon Sport Fishing

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| I. | Date of Initial Statement of Reasons: | January 5, 2002 |
| II. | Date of Pre-adoption Statement of Reasons: | March 20, 2002 |
| III. | Date of Final Statement of Reasons: | April 15, 2002 |
| IV. | Dates and Locations of Scheduled Hearings: | |
| | (a) Notice Hearing: | |
| | Date: | February 9, 2002 |
| | Location: | Sacramento, CA |
| | (b) Discussion Hearing: | |
| | Date: | March 8, 2002 |
| | Location: | San Diego, CA |
| | (c) Action Hearing: | |
| | Date: | April 5, 2002 |
| | Location: | Long Beach, CA |
| V. | Update: | |

Since the Pre-adoption Statement, the Pacific Fishery Management Council (PFMC) held three public hearings in California and met in Portland, Oregon, the week of April 8-12, 2002 to decide the final regulations for Federal waters (3-200 miles offshore). Option 3, as shown in the Pre-adoption statement, was adopted for the California sport fishery for all areas with the exception of no circle hook definition modification, two additional days in July for the areas above Point Arena and the seven day possession limit for the Klamath Management Zone was increased to six fish for the entire season. Several minor language and punctuation changes were made for clarity and consistency with other regulations.

The Commission considered the recommendations of the PFMC at its April 5, 2002 meeting and voted to apply consistent regulations to State waters (0-3 miles offshore).

- VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting those considerations:

- (1) The PFMC held public hearings on the three options as described in the Pre-adoption statement. A meeting summary is attached.

Public support was strongly in favor of the adopted regulations.

- (2) Comment by Mr. Bob Strickland, April 5th Commission meeting: Mr Strickland recommending the PFMC's circle hook definition revision be implemented on July 1, 2002 for Option 3.

Department Response: The circle hook definition revision was not adopted in the final 2002 Federal regulations therefore it is not applicable to State waters.

VII. Location and Index of Rulemaking File:

A rule-making file with attached file index is maintained at:

California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VIII. Location of Department files:

Department of Fish and Game
1416 Ninth Street
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

The PFMC examined various alternatives in the process of adopting the management options on March 15, 2002 for public review. These may include such alternatives as:

1. Minimum size of salmon that may be retained;
2. The number of rods anglers may use (e.g., one, two, or unlimited);
3. The type of bait and/or terminal gear that may be used (e.g., amount of weight, hook type, and type of bait or no bait);
4. The number of salmon that may be retained per angler-day or period of days;
5. Allowable fishing dates and areas; and

6. The overall number of salmon that may be harvested, by species and area.

The final regulation recommendations were made by the PFMC on April 12, 2002.

(b) No Change Alternative:

Upon approval of the PFMC's management recommendations by the Secretary of Commerce (SOC), the State must move in a timely manner to conform its ocean sport fishing regulations for salmon within State waters (0 to 3 miles offshore) to those adopted by the SOC; otherwise, preemption of State regulatory authority by the SOC may occur.

(c) Consideration of Alternatives:

In view of the information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California to Compete with Businesses in Other States:

The agency is not aware of any cost impacts that a representative business would necessarily incur in reasonable compliance with the proposed action. This is because regulations, close to status-quo, are expected to be adopted.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None

(c) Cost Impact on Private Persons:

The agency is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Other Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None
- (g) Costs Imposed to Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

Updated Informative Digest (Plain English Overview)

Annually, the Pacific Fishery Management Council (Council) develops ocean salmon fishing regulations that must meet specific spawning escapement goals for the stocks on which California's ocean salmon fisheries are managed under the salmon Fishery Management Plan (FMP). The FMP requires that the ocean salmon fisheries south of Cape Falcon (in northern Oregon) must be managed to ensure that: (1) no less than 35,000 adult Klamath fall chinook be allowed to spawn naturally (i.e., outside of hatcheries) in years of low abundances after allowing for the recreational and Tribal in-river fisheries; (2) 122,000 to 180,000 adult fall chinook salmon are allowed to return to the Sacramento River and its tributaries to spawn; (3) To protect Sacramento winter chinook, the duration and timing of fishing seasons south of Point Arena are maintained to status quo relative to the past two years (as mandated by the NMFS under the ESA effective May 1, 2002); and (4) coho salmon impact rate not exceed 12.5 percent on Oregon Coastal Natural (OCN) coho predicted abundance (as agreed upon by the PPMC to protect lower Columbia River wild coho, an Oregon State listed species). At the Council's April 2002 meeting status-quo management measures, as compared to 2001, were adopted to meet the foregoing requirements and include:

- In the area from Humbug Mountain in southern Oregon to Horse Mountain (near Shelter Cove), known as the Klamath Management Zone, the days of May 15 through June 30, July 3 and 4, and August 1 through September 15 are open. There is a two salmon of any species (except coho) daily bag limit with no more than six salmon in seven consecutive days as the possession limit. The minimum size is 20 inches total length (TL).
- South of Horse Mountain, the daily bag and possession limits are two salmon of any species (except coho) and the minimum size limit is 24 inches TL through April 30 and 20 inches TL thereafter.
- Between Horse Mountain and Point Arena, the season is February 16 (Saturday nearest February 15) through July 7 and July 20 through November 17 (the Sunday nearest November 15). In 2003, the season will open on February 15 (the Saturday nearest February 15) with a minimum size limit of 24 inches TL and same bag limit and gear restrictions as 2002.
- Between Point Arena and Pigeon Point, the season is April 13 (the Saturday nearest April 15) through November 10. In 2003, the season will open on April 12 (the Saturday nearest April 15) with a minimum size limit of 24 inches TL and same bag limit and gear restrictions as 2002.
- South of Pigeon Point, the season is March 30 (the Saturday nearest March 31) through September 29. In 2003, the season will open on March 29 (the Saturday nearest March 31) with a minimum size limit of 24 inches TL and same bag and gear restrictions as 2002.

- As in 2001, for the ocean waters between Horse Mountain and Point Conception, salmon anglers fishing with bait are required to use no more than two barbless circle hooks (size unspecified) when fishing by any means other than trolling, which is defined as fishing from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions. A circle hook is defined as a hook with a generally circular shape, and a point which turns inwards, pointing directly to the shank at a 90 degree angle. Barbless J hooks may be used only when trolling or fishing with an artificial lure without bait.
- As in 2001, north of Point Conception, when fishing for salmon or fishing from a boat or floating device with salmon on board, no more than two single point, single shank barbless hooks shall be used on all fishing gear and each ocean angler shall use only one rod.
- Several minor language and punctuation changes were made for clarity and consistency with other regulations.

The final regulation recommendations were made by the Council on April 12, 2001. Upon approval of the Council's management recommendations by the Secretary of Commerce, the State must move in a timely manner to conform its ocean salmon sport fishing regulations in State waters (0 to 3 miles offshore) to those agreed upon by the Council; otherwise, preemption of State regulatory authority by the Secretary of Commerce could occur.

Section 27.80, Title 14, CCR, is amended to read:

(a) Methods of take:

(1) General Provisions. Only by angling as defined in Section 1.05. No sinkers or weights exceeding four pounds may be used, except that a fishing line may be attached to a sinker or weight of any size if such sinker or weight is suspended by a separate line and the fishing line is released automatically by a mechanical device from the sinker or weight when any fish is hooked. See ~~s~~Sections 1.74, 28.65 and 28.70.

(2) Barbless Hooks. No more than two (2) single point, single shank barbless hooks shall be used in the ocean north of Point Conception (34° 27' 00" N. lat.) when salmon fishing or fishing from any boat or floating device with salmon are on board.

(3) Other Hook Restrictions. When fishing with bait in the ocean between Horse Mountain (40° 05' 00" N. lat.) and Point Conception, if angling by any other means than trolling, then no more than two (2) single point, single shank, barbless circle hooks shall be used. The distance between the two hooks must not exceed five inches when measured from the top of the eye of the top hook to the inner base of the curve of the lower hook, and both hooks must be permanently tied in place (hard tied). A circle hook is defined as a hook with a generally circular shape, and a point which turns inwards, pointing directly to the shank at a 90 degree angle. Trolling is defined as angling from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions. See Section 28.65 (g).

(4) One Rod Restriction north of Point Conception. Salmon may be taken by angling with no more than one rod in ocean waters north of Point Conception. See Section 28.65 (e).

(b) Season:

(1) South of Pigeon Point (37° 11' 00" N. lat.). All waters of the ocean south of Pigeon Point are open to salmon fishing from March 31, ~~2001~~30, 2002 through September 30, ~~2001~~29, 2002 (Note: In ~~2002~~2003, the season will open March 3029, the Saturday nearest April 1).

(2) Between Point Arena (38° 57' 30" N. lat.) and Pigeon Point. All waters of the ocean between Point Arena and Pigeon Point are open to fishing from April 14, ~~2001~~13, 2002 through November 13, ~~2001~~10, 2002 (Note: In ~~2002~~2003, the season will open April 1312, the Saturday nearest April 15).

(3) Between Horse Mountain and Point Arena. All waters of the ocean between Horse Mountain and Point Arena are open to salmon fishing from February 17, ~~2001~~16, 2002, the Saturday nearest February 15, through July 7, 2002, and July 20, 2002 through November 18, ~~2001~~17, 2002, the Sunday nearest November 15 (Note: In ~~2002~~2003, the season will open February 1615, the Saturday nearest February 15).

(4) North of Horse Mountain and Humboldt Bay. All waters of the ocean north of Horse Mountain and Humboldt Bay are open to salmon fishing from May 17, ~~2001~~15, 2002 through ~~July 8, 2001~~June 30, 2002, July 3 and 4, 2002, and July 24, 2001August 1, 2002 through September 3, ~~2001~~15, 2002 (Note: In ~~2002~~2003, the season will be decided in April by the Pacific Fishery Management Council and California Fish and Game Commission and the section will be amended pursuant to the regulatory process).

EXCEPTION: The ocean area surrounding the Klamath River mouth bounded on the north by 41° 38' 48" N. lat. (approximately 6 nautical miles north of the Klamath River mouth), on the south by 41° 26' 48" N. lat. (approximately 6 nautical miles south of the Klamath River mouth), and extending 3 nautical miles offshore is closed to salmon fishing between August 1 and August 31. No salmon may be taken at any time in ocean waters at the mouths of the Smith and Klamath rivers and during August and September at the mouth of the Eel River. (See Section 27.75).

(c) Limit:

(1) North of Horse Mountain: Two salmon per day. No more than ~~four~~six fish in seven consecutive days, ~~from May 17 through July 8. Beginning July 24 through September 3,~~ ~~no more than six fish in seven consecutive days~~ (See subsection (c)(3) below).

(2) South of Horse Mountain: Two salmon per day. (See subsection (c)(3) below and Section 1.17).

(3) Statewide Silver (coho) Salmon Restrictions: No silver (coho) salmon may be retained.

(d) Minimum size:

(1) North of Horse Mountain: Twenty inches total length.

(2) ~~South of Horse Mountain to Point Arena:~~ South of Horse Mountain to Point Arena: Twenty-four inches total length through ~~May 31~~April 30 and twenty inches total length thereafter. (Note: In ~~2002~~2003, the season will open with a minimum size of twenty-four inches total length).

(3) ~~South of Point Arena: Twenty-four inches total length through June 30 and twenty inches total length thereafter. (Note: In 2002, the season will open with a minimum size of twenty-four inches total length).~~

NOTE Authority cited: Sections 200, 202, 205, 220, 240, 2084 and 7891, Fish and Game Code. Reference: Sections 200, 202, 205 and 2084, Fish and Game Code.